

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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INESSA KLIMOVITSKY,

Case No. 21-CV-755 (MKB)(RER)

Plaintiff,

-against-

NOTICE OF MOTION

JG INNOVATIVE INDUSTRIES, INC., *and all
of its parent corporations, subsidiaries, affiliates,
divisions, successors and assigns,*
JOSEPH GOTTLIEB, *Individually,*
ANAT GEULA, *Individually,* and
DOV MEDINA, *Individually,*

Defendants.

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PLEASE TAKE NOTICE that, upon the accompanying Declaration of Anat Geula, with exhibit(s) thereto, and the accompanying Memorandum of Law, the Defendants will move this Court before the Honorable Margo K. Brodie, Chief United States District Judge for the Eastern District of New York, at the United States District Courthouse at 225 Cadman Plaza East, Brooklyn, NY 11201, for and Order:

1. pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing the Plaintiff's Fifth, Sixth, and Seventh causes of action asserted against defendant J.G. Innovative Industries Inc. ("JGII") in the First Amended Complaint, for failure to state a claim upon which relief can be granted, as JGII does not constitute an "employer" as defined by Title VII of the Civil Rights Act of 1964 and Plaintiff has not adequately pleaded that it does;
2. in the alternative, pursuant to Federal Rule of Civil Procedure 12(d), converting this motion to a motion for summary judgment on the issue of JGII's status as an "employer" as defined by Title VII of the Civil Rights Act of 1964, and granting summary judgment on such issue for the Defendants;

3. pursuant to Federal Rule of Civil Procedure 12(b)(6), dismissing the Plaintiff's Fifth, Sixth, and Seventh causes of action asserted against ("JGII") in the First Amended Complaint, for failure to exhaust administrative remedies and satisfy a necessary precondition to filing a claim pursuant to Title VII of the Civil Rights Act of 1964 by failing to obtain a "right-to-sue" letter from the United States Equal Employment Opportunity Commission;
4. pursuant to Federal Rule of Civil Procedure 12(b)(1), dismissing the Plaintiff's Eighth through Thirteenth causes of action asserted against all Defendants in the First Amended Complaint, for lack of subject matter jurisdiction; and
5. granting such other and further relief as the Court deems just and proper.

Dated: Long Island City, New York
June 7, 2021

STEPHEN D. HANS & ASSOCIATES, P.C.

By /s/ Nils C. Shillito
Nils C. Shillito (NS-6755)
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Attorneys for the Defendants

To: Jonathan Shalom, Esq.
Shalom Law, PLLC
105-13 Metropolitan Avenue
Forest Hills, NY 11375

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on June 7, 2021, I caused a true and correct copy of the foregoing Notice of Motion to be served upon counsel for the Plaintiff via electronic mail to:

Jonathan Shalom, Esq.
SHALOM LAW, PLLC
Email: jonathan@shalomlawny.com
Attorneys for the Plaintiff

/s/Nils C., Shillito
Nils C. Shillito (NS-6755)